

REMARKS

Claims 1-15 are currently pending. Claims 1-13 are currently amended for clarity and in accordance with U.S. practice. New claims 14 and 15 are added and support can be found, for example, in original claim 5. No new matter is added.

Claim Objections

The claims have been amended to clarify the different steps and elements of the claims, as suggested by the Examiner.

Claim Rejections - 35 USC 112

Claims 2, 4, 5 and 12 were rejected under 35 USC 112, 2nd paragraph, as allegedly indefinite for failing to point out and distinctly claim the subject matter that the applicant regards as the invention. Specifically, the Examiner objects to the term “corresponding” in claims 2 and 12; objects to “the top coat” as lacking antecedent basis in claim 4; and objects to a broad range together with a narrow range in claim 5. Claims 2, 4, 5 and 12 have been amended, and this rejection is believed to be moot.

Claim Rejections - 35 USC 102/103

Claim 6 is rejected under 35 USC 102(b) as allegedly anticipated, or in the alternative, under 35 USC 103(a) as obvious over US 7,335,399 to Bolton et al. (“Bolton”). Bolton describes a wood substrate having an opaque base coat and a water-based graining coat. The Examiner interprets claim 6 as a product by process claim, however Bolton fails to disclose either the process or the product of claim 6. Claim 6 recites a particle size distribution, wherein the spherical polymer particles in the emulsion paint show a particle size distribution in which 3-10% of the particles have an average particle size between 63-90 micrometers and 25-40% have a particle size between 40-63 micrometers. The Examiner admits that “US’399 is silent as to the particle shape or size distribution” (Office Action, page 7). Applicants note that Bolton does not disclose an emulsion paint comprising spherical polymer particles at all, let alone any specific particle size distribution. Thus, Bolton does not disclose or suggest all the limitations of claim 6.

Claim Rejections - 35 USC 103

Claims 1-4 and 12 are rejected under 35 USC 103(a) as allegedly obvious over Bolton in view of US 5,498,670 to Aoyama et al. ("Aoyama"). As discussed above, Bolton does not disclose an emulsion paint comprising spherical polymer particles at all, let alone any specific particle size distribution. The Examiner attempts to use Aoyama to cure this deficiency.

Aoyama describes a coating composition including crosslinked spherical fine particles. The Examiner admits that "US'670 fail to teach a particle size distribution in which 3-10% of the particles have an average particle size between 63-90 microns and 25-40% have a particle size between 40-63 microns" (Office Action, page 9). Aoyama states that the "crosslinked spherical fine particles to be used for the coating composition should have an average particle diameter of 1-100 μm , preferably 3-70 μm , and more preferably 5-50 μm " (col 13, line 8-10). Although Aoyama describes an alternative method that produces "spherical fine particles composed of particles of large diameters and small diameters (or having a broad particle size distribution)," this method is "usually undesirable" (col 11, lines 30-37). Aoyama also teaches away from having a large percentage of particles of the larger size, since the particles are most preferably 5-50 μm , which is smaller than the particle range claimed for 25-40% of the particles. In the present invention, it was surprisingly found that 3-10% of particles 63-90 μm and 25-40% of particles 40-63 μm results in a soft-feel and a suede look (paragraph [0005]). The Examiner states that "[p]article size distribution is a result-effective variable" thus routine optimization could allegedly be used to determine the optimal particle size (Office Action, page 7). However, it would not be obvious to have two different particle size ranges as claimed in view of the undesirability of this in Aoyama. Thus, Bolton and Aoyama fail to disclose all the limitations of claim 1 and 12, and the claims dependent therefrom.

Furthermore, there is no teaching, suggestion, or motivation to combine Bolton with Aoyama. Since Bolton is directed to providing a wood-grain appearance, it would go against the teaching of Bolton to have a leatherlike or velvetlike appearance. Thus, it would not be obvious to one of ordinary skill in the art to use the particles of Aoyama in the process of Bolton.

Claim 5 and 13 are rejected under 35 USC 103(a) as allegedly obvious over Bolton in view of Aoyama in view of US 2004/0158949 to Booth et al. ("Booth"). As discussed above, neither Bolton or Aoyama disclose an emulsion paint comprising spherical polymer particles

with the claimed particle size distribution. Booth does not cure these deficiencies. Thus, Bolton, Aoyama and Booth fail to disclose all the limitations of claim 5 and 13.

Claims 7-10 are rejected under 35 USC 103(a) as allegedly obvious over Aoyama. As discussed above, Aoyama fails to disclose an emulsion paint comprising spherical polymer particles with the claimed particle size distribution. Thus, Aoyama fails to disclose all the limitations of claim 7, and claims 8-10 dependent therefrom.

Claim 11 is rejected under 35 USC 103(a) as allegedly obvious over Aoyama in view of McGeary ("Paintings by Dennis McGeary"). As discussed above, Aoyama fails to disclose an emulsion paint comprising spherical polymer particles with the claimed particle size distribution. McGeary does not cure these deficiencies. Thus, Aoyama and McGeary fail to disclose all the limitations of claim 11.

Conclusion

Although no fees are believed to be due, the Office may charge any additional fees required, or credit any overpayments, to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,
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